IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2068 OF 2005

Nidhi Shrikant Mane .....Petitioner

Versus

The Vasantdada Shetkari Sahakari Bank Ltd. & Anr. ... Respondents

Mr. Uday P. Warunjikar for the Petitioner

Mr. S.S. Patwardhan for Respondent No. 1.

CORAM: DALVEER BHANDARI, C.J., &
S.A. BOBDE, J.
DATE: MARCH 31, 2005.

P.C.

1. The petitioner had obtained a loan of Rs.5 lakhs from respondent No. 1-bank, which was not repaid. Thereafter, there was compromise under the One Time Settlement (OTS) Scheme of the Reserve Bank of India. It was decided that a sum of Rs.10,19,000/-

would be paid within one year, and the first instalment of Rs.2,54,750/- towards 25% of the settlement amount of Rs.10,19,000/- to the bank be paid on or before 30th September, 2003. The first instalment was paid.

2. Thereafter, the remaining instalments were admittedly not paid. The bank again asked the petitioner to re-pay the balance amount, but despite that, the petitioner did not re-pay the amount. The petitioner sent a letter on 30th September, 2003 to respondent No. 1-bank. It stated that the petitioner is accepting the offer of OTS given by respondent No. 1, and is willing to pay the balance amount.

3. Respondent No. 1-bank stated that at the end of 2003, the amount, which was outstanding, had gone up to Rs.39,00,000/- approximately. Respondent No.1-bank informed the petitioner that the OTS Scheme of the Reserve Bank of India is not applicable in case of co-operative banks, but is applicable in case of public sector banks only. The petitioner submitted that so far as the payments of the 2nd and 3rd instalments are concerned, the petitioner is ready to execute letter of

undertaking that after taking withdrawal of the amount from the State Commission, Maharashtra, Mumbai, the petitioner would deposit the said amount directly.

4. In the above circumstances, respondent No. 1-bank has taken possession of the factory. Respondent No.1 approached the Assistant Registrar, Co-operative Societies, under Section 101 of the Maharashtra Co-operative Societies Act, 1960, and prayed for Recovery Certificate, and the same is granted in their favour. Respondent No. 2 had fixed the date for auction of the said property on 30th March, 2005.

5. The petitioner has approached the Court, and prayed that the auction scheduled to be held on 31st March, 2005 be stayed.

6. We have heard the learned counsel for the parties at length, and perused all the relevant documents.

7. On consideration of the totality of the facts and circumstances, and looking to the conduct of the petitioner, in our considered view, it is not a fit case in which any interference is called for in our extra-ordinary jurisdiction under Article 226 of the Constitution. This writ petition, being devoid of any merit, is accordingly dismissed.

CHIEF JUSTICE

S.A. BOBDE, J.